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8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-103

13 STEVEN ROSS PHILLIPS,
14 AKA STEVEN PHILLIPS
25090 Buck Road
Acampo, CA 95220

A C C U S A T I O N

15 Registered Nurse License No. 565486
16 Nurse Anesthetist License No. 2956

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
23 ("Board"), Department of Consumer Affairs.

24 **Registered Nurse License**

25 2. On or about March 23, 2000, the Board issued Registered Nurse License
26 Number 565486 to Steven Ross Phillips, also known as Steven Phillips ("Respondent"). The
27 registered nurse license was in full force and effect at all times relevant to the charges brought
28 herein and will expire on May 31, 2009, unless renewed.

1 **Nurse Anesthetist License**

2 3. On or about March 10, 2003, the Board issued Nurse Anesthetist License
3 No. 2956 to Steven Ross Phillips, also known as Steven Phillips (Respondent). The nurse
4 anesthetist license was in full force and effect at all times relevant to the charges brought herein
5 and will expire on May 31, 2009, unless renewed.

6 **STATUTORY PROVISIONS**

7 4. Business and Professions Code ("Code") section 2750 provides, in
8 pertinent part, that the Board may discipline any licensee, including a licensee holding a
9 temporary or an inactive license, for any reason provided in Article 3 (commencing with Code
10 section 2750) of the Nursing Practice Act.

11 5. Code section 2764 provides, in pertinent part, that the expiration of a
12 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
13 against the licensee or to render a decision imposing discipline on the license. Under Code
14 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
15 years after the expiration.

16 6. Code section 2770.11 provides:

17 (a) Each registered nurse who requests participation in a diversion
18 program shall agree to cooperate with the rehabilitation program designed by a
19 committee. Any failure to comply with the provisions of a rehabilitation program
20 may result in termination of the registered nurse's participation in a program. The
21 name and license number of a registered nurse who is terminated for any reason,
22 other than successful completion, shall be reported to the board's enforcement program.

23 (b) If a committee determines that a registered nurse, who is denied
24 admission into the program or terminated from the program, presents a threat to
25 the public or his or her own health and safety, the committee shall report the name
26 and license number, along with a copy of all diversion records for that registered
27 nurse, to the board's enforcement program. The board may use any of the records
28 it receives under this subdivision in any disciplinary proceeding.

24 7. Code section 2761 states, in pertinent part:

25 The board may take disciplinary action against a certified or licensed nurse
26 or deny an application for a certificate or license for any of the following:

27 (a) Unprofessional conduct, which includes, but is not limited to, the
28 following:

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1 (f) Conviction of a felony or of any offense substantially related to the
2 qualifications, functions, and duties of a registered nurse, in which event the
record of the conviction shall be conclusive evidence thereof.

3 8. Code section 2762 states, in pertinent part:

4 In addition to other acts constituting unprofessional conduct within the
5 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
for a person licensed under this chapter to do any of the following:

6 (a) Obtain or possess in violation of law, or prescribe, or except as
7 directed by a licensed physician and surgeon, dentist, or podiatrist administer to
himself or herself, or furnish or administer to another, any controlled substance as
8 defined in Division 10 (commencing with Section 11000) of the Health and Safety
Code or any dangerous drug or dangerous device as defined in Section 4022.

9 (b) Use any controlled substance as defined in Division 10
10 (commencing with Section 11000) of the Health and Safety Code, or any
dangerous drug or dangerous device as defined in Section 4022, or alcoholic
11 beverages, to an extent or in a manner dangerous or injurious to himself or herself,
any other person, or the public or to the extent that such use impairs his or her
12 ability to conduct with safety to the public the practice authorized by his or her
license.

13 (c) Be convicted of a criminal offense involving the prescription,
14 consumption, or self-administration of any of the substances described in
subdivisions (a) and (b) of this section, or the possession of, or falsification of a
15 record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

16 9. Code section 4060 provides, in pertinent part,

17 No person shall possess any controlled substance, except that furnished to
18 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
19 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
20 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
21 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

22 COST RECOVERY

23 10. Code section 125.3 provides, in pertinent part, that the Board may request
24 the administrative law judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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11. **DRUG**

a. **"Percocet"**, a brand of oxycodone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

b. **"Benzodiazepine"** is a Schedule IV controlled substance which is a depressant as designated by Health and Safety Code section 11057, subdivision (d), and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

c. **"Dilaudid"**, a brand of hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(K), and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

TERMINATION FROM DIVERSION PROGRAM

12. On or about September 6, 2006, Respondent, subsequent to being observed diverting controlled substances while he was on duty as a registered nurse, voluntarily enrolled in the Board's Registered Nursing Diversion Program ("Diversion Program"). While in the Diversion Program, Respondent tested positive for Percocet in random drug screenings on March 19, 2007, December 20, 2006, and December 8, 2006. As a result, effective April 2, 2007, Respondent was terminated from the Diversion Program for failure to comply with the rehabilitation plan; further, Respondent was deemed a public risk.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

13. Respondent's license is subject to disciplinary action under Code section 2761, subdivision (f), in that Respondent has been convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. On December 14, 2004, in the Superior Court, County of Sacramento, in the case entitled *People of the State of California v. Steven Ross Phillips* (Super. Ct. Sacramento Cty., 2004, Case No. 04T04603),

1 Respondent was convicted by the Court on his plea of no contest of violating Vehicle Code
2 section 23152, subdivision (b) (driving with blood alcohol level of .08% or more).

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Conviction of Criminal Offense Involving Alcohol)

5 14. Respondent's license is subject to disciplinary action under Code section
6 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
7 2762, subdivision (c), in that Respondent was convicted of a crime involving alcohol, as more
8 fully set forth in paragraph 13, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Possess a Controlled Substance in Violation of Law, and Self-Administration)

11 15. Respondent's license is subject to disciplinary action under Code section
12 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
13 2762, subdivision (a), in that while licensed as a registered nurse and nurse anesthetist,
14 Respondent committed acts, as follows:

15 a. On or about March 19, 2007, and December 8, 2006, Respondent
16 possessed Percocet, a controlled substance, in violation of Code section 4060.

17 b. On or about March 19, 2007, and December 8, 2006, Respondent self-
18 administered Percocet, a controlled substance.

19 c. On or about December 20, 2006, and December 8, 2006, Respondent
20 possessed Benzodiazepine, a controlled substance, in violation of Code section 4060.

21 d. On or about December 20, 2006, and December 8, 2006, Respondent self-
22 administered Benzodiazepine, a controlled substance.

23 e. In or about August/September 2005, Respondent possessed Dilaudid, a
24 controlled substance, in violation of Code section 4060.

25 f. In or about August/September 2005, Respondent self-administered
26 Dilaudid, a controlled substance.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Use of Alcohol - Danger to Others)

3 16. Respondent's license is subject to disciplinary action under Code section
4 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section
5 2762, subdivision (b), in that on or about September 6, 2004, Respondent used alcoholic
6 beverages in a manner dangerous or injurious to himself and others, as more fully set forth in
7 paragraph 13, above.

8 **PRAYER**

9 **WHEREFORE**, Complainant requests that a hearing be held on the matters
10 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


11 1. Revoking or suspending Registered Nurse License Number 565486, issued
12 to Steven Ross Phillips, also known as Steven Phillips;

13 2. Revoking or suspending Nurse Anesthetist License Number 2956, issued
14 to Steven Ross Phillips, also known as Steven Phillips;

15 3. Ordering Steven Ross Phillips, also known as Steven Phillips, to pay the
16 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
17 case, pursuant to Code section 125.3; and,

18 4. Taking such other and further action as deemed necessary and proper.

19 DATED: 9/25/07

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21 
22 RUTH ANN TERRY, M.P.H., R.N.
23 Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
26 State of California
27 Complainant
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